

03hr_JC-Au_ab0893_pt02



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(session year)

Joint

(Assembly, Senate or Joint)

Committee on Audit...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (ar = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (November 2012)

Record of Committee Proceedings

Joint Legislative Audit Committee

Assembly Bill 893

Relating to: major highway projects, southeast Wisconsin freeway rehabilitation projects, and the transportation projects commission.

By Representative Jeskewitz; cosponsored by Senator Roessler.

February 23, 2004 Referred to Joint Legislative Audit Committee.

February 26, 2004 **PUBLIC HEARING HELD**

Present: (9) Senators Roessler, Darling, Plale and Lassa;
Representatives Jeskewitz, Kaufert, Kerkman,
Cullen and Pocan.

Absent: (1) Senator Cowles.

Appearances For

- Suzanne Jeskewitz, Menomonee Falls – Representative, Wisconsin State Assembly
- Carol Roessler, Oshkosh – Senator, Wisconsin State Senate
- Pat Riley, Franklin
- Ward Lyles, Madison – 1000 Friends of Wisconsin

Appearances Against

- None.

Appearances for Information Only

- Randy Romanski, Madison – Wisconsin Department of Transportation
- Mark Wolfgram, Madison – Wisconsin Department of Transportation

Registrations For

- John Ainsworth, Shawano – Representative, Wisconsin State Assembly

Registrations Against

- None.

February 26, 2004 **EXECUTIVE SESSION HELD**

Present: (9) Senators Roessler, Darling, Plale and Lassa;
Representatives Jeskewitz, Kaufert, Kerkman,
Cullen and Pocan.
Absent: (1) Senator Cowles.

At the request of Co-Chair Jeskewitz, **Assembly Amendment LRBa2408/1** was introduced by unanimous consent

Moved by Representative Kerkman, seconded by Senator Plale that **Assembly Amendment LRBa2408/1** be recommended for adoption.

Ayes: (8) Senators Roessler, Darling, Plale and Lassa;
Representatives Jeskewitz, Kerkman, Cullen and
Pocan.
Noes: (1) Representative Kaufert.
Absent: (1) Senator Cowles.

ADOPTION OF ASSEMBLY AMENDMENT LRBA2408/1
RECOMMENDED, Ayes 8, Noes 1

Moved by Senator Roessler, seconded by Representative Pocan that **Assembly Bill 893** be recommended for passage.

Ayes: (9) Senators Roessler, Darling, Plale and Lassa;
Representatives Jeskewitz, Kaufert, Kerkman,
Cullen and Pocan.
Noes: (0) None.
Absent: (1) Senator Cowles.

PASSAGE RECOMMENDED, Ayes 9, Noes 0

Moved by Senator Roessler, seconded by Representative Pocan that **Assembly Bill 893** be recommended for passage as amended.

Ayes: (9) Senators Roessler, Darling, Plale and Lassa;
Representatives Jeskewitz, Kaufert, Kerkman,
Cullen and Pocan.
Noes: (0) None.
Absent: (1) Senator Cowles.

PASSAGE AS AMENDED RECOMMENDED, Ayes 9, Noes 0



Pam Matthews
Committee Clerk

Vote Record

Joint committee on Audit

Date: Feb. 26, 2004

Moved by: Rep. Kerkman

Seconded by: Sen. Plale

Motion to recommend adoption of Assembly Amendment LRBa 2408/1

Be recommended for:

- ☐ Passage ☒ Adoption ☐ Confirmation ☐ Concurrence ☐ Indefinite Postponement
☐ Introduction ☐ Rejection ☐ Tabling ☐ Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Alberta Darling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeff Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Dean Kaufert	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Samantha Kerkman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative David Cullen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>1</u>	<u>1</u>	<u>8</u>

Vote Record

Joint committee on Audit

Date: Feb. 24, 2004

Moved by: Sen. Roessler

Seconded by: Rep. Pocan

Motion to recommend passage of AB893 as amended

Be recommended for:

- ☒ Passage ☐ Adoption ☐ Confirmation ☐ Concurrence ☐ Indefinite Postponement
☐ Introduction ☐ Rejection ☐ Tabling ☐ Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Alberta Darling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeff Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Dean Kaufert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Samantha Kerkman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative David Cullen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>9</u>	<u>0</u>	<u>1</u>	<u>0</u>



1/27/04

Key Elements for Bill Draft on Transportation Projects Commission

Procedural:

- Introduced by Senator Carol A. Roessler (Senate Bill)
- Introduced by Representative Suzanne Jeskewitz (Assembly Companion Bill)

Background:

In response to the findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (report 03-13), and reflective of testimony offered before the Joint Legislative Audit Committee in a public hearing on January 26, 2004, the co-chairpersons of the Joint Legislative Audit Committee wish to draft legislation that would increase Legislative involvement and oversight in managing major highway program expenditures by making procedural and process changes to the operations of the Transportation Projects Commission.

Key Elements for Proposed Legislation:

The composition, duties, and responsibilities of the Transportation Projects Commission are identified in s. 13.489 Wis. Stats. The proposed legislation would modify these responsibilities as follows:

1. Semi-annual reporting to the Transportation Projects Commission. On February 1 and August 1 of each year, the Department of Transportation will prepare and submit to the Transportation Projects Commission a formal report summarizing the current status of each major highway project enumerated and the current status of each potential major highway project approved by the Commission for preparation of an environmental impact statement or an environmental assessment. The report will identify project costs as of the reporting date by major cost categories, include specific detail to describe the most current design of the project, and explain any project design modifications made since the Department's last report to the Commission.
2. A major highway project may not be enumerated by the Transportation Projects Commission until it has received and reviewed the final environmental impact statement or environmental assessment. Section 13.489 (4)(d), Wis. Stats., requires the Commission to notify the Department of those potential major highway projects that the Commission has approved for preparation of an environmental impact statement or an environmental assessment. The Commission must have received and reviewed the final environmental impact statement or environmental assessment before the Commission may enumerate the project.
3. Post-enumeration review of project costs by the Transportation Projects Commission. If, at any time after the Transportation Projects Commission has enumerated a major highway project, total project costs increase by more than ten percent (10%) of the total project costs approved by the Commission when the project was enumerated, the Department of Transportation must report and justify the cost increases to the Transportation Projects Commission within 60 days.
4. Only the Transportation Projects Commission shall have statutory authority to enumerate a major highway project. The Legislature may not independently enumerate a major highway project. No major highway project shall be enumerated without the approval of the Transportation Projects Commission.



Matthews, Pam

From: Asbjornson, Karen
Sent: Thursday, February 19, 2004 10:56 AM
To: Matthews, Pam
Cc: Chrisman, James
Subject: Re: bill draft

Hi Pam,

I haven't been able to talk to Carol and probably can't for a bit yet given what I have brewing down here. I just sent the one pager on what the bill does to the Wisconsin Taxpayer Alliance people who asked for it. They also requested a copy of the bill draft, but I explained that we hope and anticipate the final version will be available this afternoon. She is working on a newsletter with hearings and what topics they are covering. I explained to her that giving her the preliminary drafts wouldn't be an accurate account of what members will reviewing and potentially voting on next week.

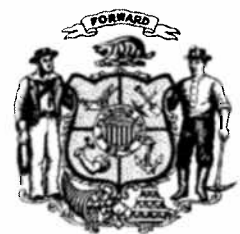
Could we just send the one pager to whoever needs info on the bill but not let the actual drafts out until they have been introduced or at least with the new changes (/3)? I don't really feel comfortable and I'm guessing Carol wouldn't either giving older drafts out.

Let me know if this answers your question we spoke of earlier...sorry I didn't want to be late to testify so I apologize if I wasn't tracking with you.

Karen Asbjornson
Office of Senator Carol Roessler
(608) 266-5300/1-888-736-8720
Karen.Asbjornson@legis.state.wi.us



WISCONSIN STATE LEGISLATURE



Notes from Conference call with Sue, Carol, Karen and Pam 2-20-04

Carol spoke with Bill Mc Coshen, who had talked with Tom Walker regarding the DOT Bill

- 1) Bill said the road builders have concerns – don't think the governor will sign bill as written
- 2) Bill feels that even though DOT has said they can report 4 time a year, based on his knowledge of the department, the staff's ability to produce the kind of product the co-chairs would be expecting will be difficult to do well with appropriate detail that frequently – they suggest it should be once a year - Carol suggests twice a year.
- 3) Walker real concerned about the adding 2 more legislative members to the TPC – Carol said too bad (doesn't know if this will be a bill killer)

Carol stressed that we want the governor to sign the bill

Sue – mentioned that they have taken out the oversight of the TPC in the current draft – have not put into place measures for oversight of DOT to make changes especially after enumeration – TPC only receives reports and can discuss - no oversight over DOT decisions. (The change management system does not ensure oversight outside of DOT – DOT employees and possibly a federal DOT employee make up oversight committee currently)

Meeting on Tues/Wed - discuss with DOT, Roadbuilders, Sue, Carol

- 1) frequency of reporting
- 2) approval by the TPC of major changes
- 3) ??

NEED SOME OTHER BODY TO APPROVE
OTHER THAN DOT

Gard - didn't like the legislature taken out of the process (except for ...- ask Tad about language) - wants to be able to give a vulnerable rep something for his district. Gard says the language can be bypassed anyways.

Sue thinks if the Legislature is not taken out of the process than it guts the bill

Carol - thinks bill was meant to elevate the TPC - that's the way it used to be. Very few people are going to know that this can be got around (taking the Legislature out of the process). Other things are awesomeley positive

Sue - if we put in some major changes - then yes

Carol - TPC looked at strengthening them - the taking the Legislature out of the process was put in after..

Sue – Tell the road builders that they have to talk to the Assembly also, ticks sue off if they only go to the Senate.

Carol – says she understands and doesn't know why it happened - guessing because Rob ... went out that they contacted her?

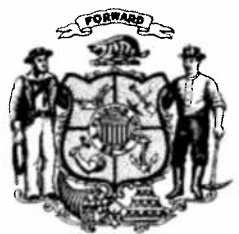
Sue - don't are if they are angry - not very pleased - sick of lobbyist running the capitol.

Carol - they don't run me - neither does Gard.

Talk to Vrakas, Fitzgerald and herself (Carol) - about Gielow.



WISCONSIN STATE LEGISLATURE



Matthews, Pam

From: Romanski, Randy
Sent: Sunday, February 22, 2004 9:42 PM
To: Matthews, Pam
Cc: Asbjornson, Karen; Klein, Rose
Subject: RE: Draft review: LRB 03-4145/3 Topic: Changes regarding major highway projects enumeration and transportation projects commission following audit bureau report

Pam,

We have the draft. Thanks. I am traveling with the Secretary to Washington D.C. on Monday, and we will be there until Wednesday. I will be back for the hearing. I plan to discuss the bill with the Secretary on Monday and can try to get back to you later that day if possible. Please contact my colleague Rose Klein if you would like to try to set up a time to talk to the Secretary and me via conference call. Thanks.

Randy

-----Original Message-----

From: Matthews, Pam
To: Romanski, Randy
Cc: Asbjornson, Karen
Sent: 2/19/04 4:57 PM
Subject: FW: Draft review: LRB 03-4145/3 Topic: Changes regarding major highway projects enumeration and transportation projects commission following audit bureau report

Hi Randy,

I'm not sure if you received this from Karen yet, but here is the Assembly version of the bill. Sue wants to meet with you, Sec. Busalacchi, and Sen. Roessler about this draft next week. I'll be in touch tomorrow to discuss.

Thanks,

Pam

-----Original Message-----

From: Shannon, Pam
Sent: Thursday, February 19, 2004 3:47 PM
To: Matthews, Pam; Asbjornson, Karen; Chrisman, James; Bezruki, Don
Subject: FW: Draft review: LRB 03-4145/3 Topic: Changes regarding major highway projects enumeration and transportation projects commission following audit bureau report

Hi all,

Here's Sue's draft. Pam M.--please note that the relating clause has changed to add reference to SE Wis...., so it should also be changed on the hearing notice when the notice is revised to add the bill numbers. Thanks.

Pam

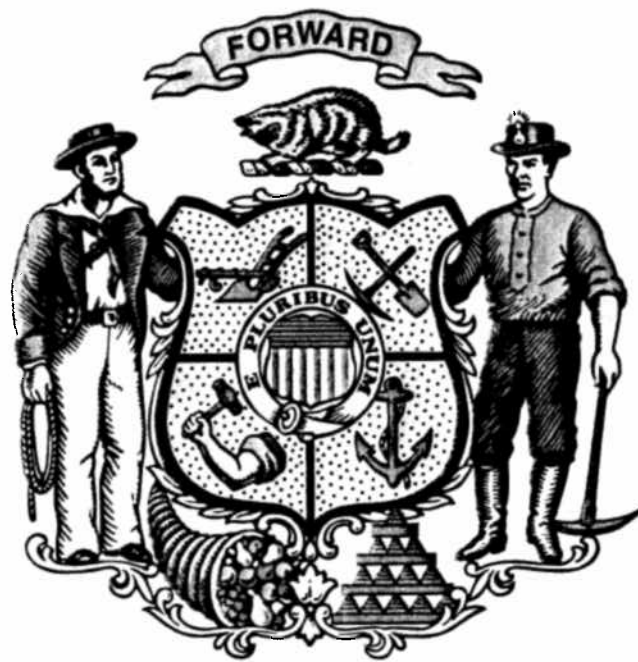
-----Original Message-----

From: Northrop, Lori
Sent: Thursday, February 19, 2004 3:34 PM
To: Shannon, Pam
Subject: Draft review: LRB 03-4145/3 Topic: Changes regarding major highway projects enumeration and transportation projects commission following audit bureau report

Draft Requester: Suzanne Jeskewitz

Following is the PDF version of draft LRB 03-4145/3.

<<LRB-4145_3>>



Matthews, Pam

From: Matthews, Pam
Sent: Tuesday, February 24, 2004 4:35 PM
To: Klein, Rose; Romanski, Randy
Cc: Asbjornson, Karen
Subject: Changes to AB 893 & SB 478

Randy,

Rep. Jeskewitz and Sen. Roessler would like to make the following changes to AB 893 & SB 478. Due to the short time frame and the inability for everyone to meet to discuss this prior to Thursday's hearing, the drafter is being asked to draft the following changes:

- 1) Making information available on the Internet. I believe you already received this from the Roessler office:

Section 7. 13.489(5) of the statutes is created to read:

13.489(5). The Department of transportation shall maintain on the internet and allow for public access to the following information, within the prescribed timelines:

(a). Any report prepared by the department of transportation for the commission. Any report shall be available on the internet within 5 business days of completion of the report and transmittal to the Commission.

(b). Any materials or documents prepared by the department of transportation for use at a meeting of the commission. Any materials or documents prepared for a meeting of the commission must be available to the public on the internet at least 5 business days prior to the meeting.

(c). Any other information prescribed by the commission. This information must be available to the public on the internet within the time prescribed by the commission.

- 2) Add language - similar to language in 4145/2 (and 4144/2) draft, page 3, starting on line 15 for approval of design changes. If the DOT wants to make any of the below design changes, they must first submit a report to the TPC identifying the desired design changes and get their approval before any of these changes can be implemented.

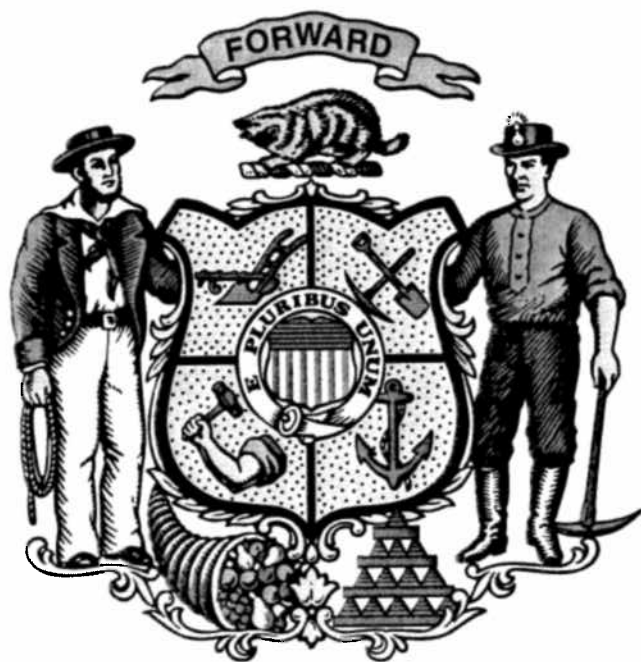
- Upgrade from highway to expressway to freeway
- At-grade intersections to interchanges
- Changing from 2-lanes to 4-lanes

Randy, we discussed doing this during our phone call

- 3) Change the frequency of reporting from quarterly to annually, or as needed. As needed would apply when a design change is requested.

Pamela B. Matthews
Research Assistant
Office of Representative Sue Jeskewitz
24th Assembly District

Office: 608-266-3796
Toll Free: 888-529-0024
Pam.Matthews@legis.state.wi.us



Matthews, Pam

From: Gary, Aaron
Sent: Wednesday, February 25, 2004 9:10 AM
To: Matthews, Pam
Cc: Asbjornson, Karen; Shannon, Pam; Chrisman, James
Subject: RE: Changes to AB 893 & SB 478

Sorry, one more follow up: I think it is presumed that DOT may charge a fee for hard-copies of the reports and documents identified in item 1), unless the bill provides otherwise. (It is not so clear whether DOT could impose an access charge on the internet.) Do you want to specify that such information is to be available without fee on the internet, or by hardcopy, or both? Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

*Have we heard
from DOT?*

-----Original Message-----

From: Matthews, Pam
Sent: Tuesday, February 24, 2004 5:09 PM
To: Gary, Aaron
Cc: Asbjornson, Karen; Shannon, Pam; Chrisman, James
Subject: Changes to AB 893 & SB 478

Aaron,

After a discussion with both Rep. Jeskewitz and Sen. Roessler I have been asked to request you to make the following changes in one simple amendment (for both bills):

- 1) **Making information available on the Internet.** *I believe you already received this from the Roessler office:*

Section 7. 13.489(5) of the statutes is created to read:

13.489(5). The Department of transportation shall maintain on the internet and allow for public access to the following information, within the prescribed timelines:

(a). Any report prepared by the department of transportation for the commission. Any report shall be available on the internet within 5 business days of completion of the report and transmittal to the Commission.

(b). Any materials or documents prepared by the department of transportation for use at a meeting of the commission. Any materials or documents prepared for a meeting of the commission must be available to the public on the internet at least 5 business days prior to the meeting.

(c). Any other information prescribed by the commission. This information must be available to the public on the internet within the time prescribed by the commission.

- 2) Add language - similar to language in 4145/2 (and 4144/2) draft, page 3, starting on line 15 for approval of design changes. If the DOT wants to make any of the below design changes, they must first submit a report to the TPC identifying the desired design changes and get their approval before any of these changes can be implemented.

- Upgrade from highway to expressway to freeway
- At-grade intersections to interchanges



Matthews, Pam

From: Gary, Aaron
Sent: Wednesday, February 25, 2004 10:32 PM
To: Matthews, Pam
Cc: Asbjornson, Karen; Shannon, Pam; Chrisman, James; Bezruki, Don
Subject: RE: Changes to AB 893 & SB 478

One additional change has been made to the amendment you received this evening (LRBa2365). The change provides that, under created s. 13.489 (2m), TPC "active review" is triggered upon the request for a hearing by *any* TPC member. Some juggling of the language was necessary to accomplish this, and hopefully the wording of the redraft will meet with your approval. Because of the shortness of time, to expedite matters, I have redrafted LRBa2365, with this change, under a new LRB number, thereby avoiding the delay of having to get the jacket back before a new draft can go out. The assembly amendment is LRBa2408. I have also taken the liberty of drafting the senate amendment with this change as well; it is now LRBa2409. (Karen, if you do not want this change included, please let me know first thing tomorrow and I will get you a version identical to LRBa2365.) I believe these two amendments should be to you by about the start of the 8:30 am hearing.

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Gary, Aaron
Sent: Wednesday, February 25, 2004 5:26 PM
To: Matthews, Pam
Cc: Asbjornson, Karen; Shannon, Pam; Chrisman, James; Bezruki, Don
Subject: RE: Changes to AB 893 & SB 478

Pam,

I put the latest amendment draft into editing about half an hour ago. It will be e-mailed to you this evening (hopefully not too late). This is the assembly amendment. Please let me know as soon as possible (by voice mail) if you need any changes. I will wait to hear further before I send the senate draft out.

Also, I think I forgot to include Karen on the direct e-mail routing, so could you please provide a copy. thanks.

Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us





WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: MEMBERS OF THE JOINT LEGISLATIVE AUDIT COMMITTEE

FROM: Pam Shannon, Senior Staff Attorney *PS*

RE: Summary of 2003 Senate Bill 478 and 2003 Assembly Bill 893, as Amended

DATE: February 26, 2004

This memorandum, prepared at the request of Co-Chairs Roessler and Jeskewitz, summarizes the provisions of 2003 Senate Bill 478 and 2003 Assembly Bill 893, relating to major highway projects, southeast Wisconsin freeway rehabilitation projects, and the transportation projects commission, as amended by a companion simple amendment.

Senate Bill 478 and Assembly Bill 893 are companion bills, introduced by Co-Chairs Roessler and Jeskewitz, respectively, in response to the findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (Audit Report 03-13) and testimony offered at the Joint Audit Committee's public hearing on January 26, 2004.

Senate Amendment __ [LRBa2409/1] and Assembly Amendment __ [LRBa2408/1] are companion simple amendments to the bills. The amendments were drafted at the request of Co-Chairs Roessler and Jeskewitz.

CURRENT LAW

Under current law, the Department of Transportation (DOT) administers the major highway projects program. A major highway project is defined, with limited exceptions, as a project having a total cost of more than \$5 million and involving either construction of a new highway of at least 2.5 miles, reconstruction or reconditioning of specified existing highways, or improvement of certain existing highways to freeway standards. Unlike other highway construction projects undertaken by DOT, major highway projects must generally receive the approval of the Transportation Projects Commission (TPC) and the Legislature (referred to as "enumeration") before the project may be constructed.

Current law distinguishes and provides separate funding for southeast Wisconsin freeway rehabilitation projects, including reconstruction of the Marquette interchange in Milwaukee County.

Current law specifically exempts any southeast Wisconsin freeway rehabilitation project from the definition of a major highway project, even if the rehabilitation project would meet the criteria for a major highway project. Therefore, southeast Wisconsin freeway rehabilitation projects are not required to be reviewed or approved by the TPC.

Currently, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. The DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. Although DOT generally may not begin construction of a major highway project without approval of the TPC and the Legislature, the Legislature may enumerate and approve the construction of major highway projects without approval of the TPC. The TPC may not recommend approval of a major highway project unless the TPC determines that there is sufficient funding to begin construction of the project within six years.

Under current law, membership of the TPC includes the Governor (who serves as chairperson), three citizen members appointed by and serving at the pleasure of the Governor, and five Senators (three from the majority party and two from the minority party) and five Representatives (three from the majority party and two from the minority party), appointed as are members of standing committees. The Secretary of Transportation serves as a nonvoting member.

COMPANION BILLS, AS AMENDED

Following is a summary of Senate Bill 478 and Assembly Bill 893, as amended by companion Senate Amendment __ [LRBa2409/1] and Assembly Amendment __ [LRBa2408/1], respectively.

1. Timing of TPC Project Approval

The bills, as amended, prohibit the TPC from recommending approval of any major highway project prior to the completion by DOT, and review by the TPC, of a final EIS or EA that has been approved by the Federal Highway Administration.

2. Project Enumeration

The bills, as amended, prohibit the Legislature from enumerating any major highway project unless the TPC has recommended approval of the project, with or without modifications.

3. Creation of Change Management System

The bills, as amended, require DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects and all southeast Wisconsin freeway rehabilitation projects.

4. Approval of Certain Design Changes

The bills, as amended, require that the TPC have the opportunity to review and approve certain project design changes proposed by DOT after a major highway project has been enumerated or

approved, prior to implementation of the design changes. The following design changes are subject to this requirement:

- a. Upgrading any portion of the project ~~from a highway~~ to a freeway or expressway.
- b. Upgrading any portion of the project to increase the number of traffic lanes.
- c. Upgrading any at-grade intersection to an interchange.
- d. Upgrading an interchange to accommodate higher-speed traffic.

Prior to implementing any of the above design changes, DOT must report the proposed changes, any reason for the changes, and the estimated project cost attributable to the changes to the TPC. If, within 14 days after the report's submission, the TPC does not notify DOT that it has scheduled a public hearing, DOT may implement the changes. Any member of the TPC may request a public hearing. If, within 14 days, the TPC notifies DOT that a public hearing has been scheduled, the TPC must conduct the public hearing and, within 60 days of DOT's submission of the report, notify DOT of the proposed changes that the TPC approves, or approves with modifications, or notify DOT that it does not approve any of the proposed changes.

If the TPC has notified DOT that a public hearing has been scheduled, DOT may not implement any proposed changes unless the TPC notifies DOT that the changes, with or without modifications, are approved.

5. DOT Reports to TPC

The bills, as amended, require DOT to submit a report every six months to the TPC on the activities of DOT's change management system relating to major highway program projects and southeast Wisconsin freeway rehabilitation projects. The reports must summarize the current status of each project approved by the TPC, each project enumerated or approved, and each southeast Wisconsin freeway rehabilitation project. The report must identify all actual and estimated project costs as of the date of the report. The project information included in the reports must be reported on both a cumulative basis from the inception of the project and on an updated basis for the period since the previous report. In addition to the semi-annual reports, DOT must report to the TPC on certain proposed project design changes, as discussed in item 4., above.

6. Availability of Information to Public

The bills, as amended, require DOT to make certain information available to the public, including making the information available at no charge on DOT's Internet site, within specified time periods. In general, this includes reports, materials, or documents prepared by DOT for the TPC ~~and~~ any other information identified by the TPC to be made available by DOT.

Reports prepared by DOT for the TPC regarding proposed project design changes and materials prepared for a public hearing on such changes must be available on the 15th day after the date the report is submitted to the TPC, if the TPC does not notify DOT within 14 days of receipt of the report that a public hearing has been scheduled. If the TPC notifies DOT that the TPC has scheduled a public hearing, the report must be available on the day of the public hearing, sometime after the hearing.

7. TPC Membership

The bills, as amended, increase the membership of the TPC by adding one additional Senator and one additional Representative, so that the membership would include six Senators (four from the majority party and two from the minority party) and six Representatives (four from the majority party and two from the minority party).

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

PS:ksm:rv;ksm





Statement Regarding AB 893/SB 478 at Joint Legislative Audit Committee

Ward Lyles, Transportation Policy Director
608-259-1000

February 26, 2004

Thank you for the opportunity to share 1000 Friends of Wisconsin's position with you today on Assembly Bill 893 and Senate Bill 478. I am Ward Lyles, Transportation Policy Director for 1000 Friends of Wisconsin.

1000 Friends of Wisconsin supports Assembly Bill 893 and Senate Bill 478 relating to Major Highway Projects, southeast Wisconsin freeway rehabilitation projects and the Transportation Projects Commission. The recent Legislative Audit Bureau report on Major Highway Projects indicated that there is a lack of sufficient accountability or restraint with respect to spending on Major Highway Projects. Significant problems, including a total of \$381 million in cost overruns on seven recent projects, clearly point to the need for increased transparency in budget reporting by the Wisconsin Department of Transportation, as well as the implementation of a Fix-it-First policy in the upcoming budget process.

These bills represent a good first step towards increased accountability, but it is only a first. We are pleased to see that the Major Highway Projects approval process would include increased review by the Transportation Project Commission by requiring that an Environmental Impact Statement or Environmental Assessment is completed *before* the TPC approves a Major Highway Project. Similarly, we are glad to see that the legislature and governor would no longer be able to ignore the recommendations of the TPC by enumerating projects that the TPC refused to approve.

The increased reporting requirement also should also be an important improvement. 1000 Friends has repeatedly pointed out that the way in which transportation budgeting is reported is confusing and inaccessible and thereby reduces accountability to the public. While we feel that even more transparency is needed than is included in these bills, quarterly reports on the status of potential Major Highway Projects, enumerated Major Highway Projects and each southeast Wisconsin Freeway Rehabilitation project would increase the public's awareness of how their transportation dollars are being spent. The

inclusion of southeast Wisconsin Freeway Rehabilitation projects is particularly important. These very expensive projects will have a statewide impact and they certainly should receive appropriate oversight. While we would prefer that the state err on the side of caution and too much oversight, it may make sense that only reconstruction projects in southeastern Wisconsin, not reconstruction, reconditioning, and resurfacing projects, be reported on quarterly.

While we do not have a major concern with the number of legislators on the TPC being eight instead of six, it does give us pause. If one of the points of this bill is to increase the influence of the TPC and to depoliticize the process of enumeration, why would more legislators being introduced into the process? This change may be a fair trade-off for the removal of the legislature's authority to enumerate without TPC approval, but we are not clear as to the rationale behind this element of the bill or the benefit that it would produce.

Again, we commend the Audit Bureau on its report and we commend the co-chairs of this committee on their quick response to the audit in developing these bills. We support their passage, allowing for the minor concerns I just mentioned. We also hope that these bills will not be the end of this process, but instead will be a first step towards restoring balance and accountability to Wisconsin's out of control state highway spending.

I would like to leave you with two suggestions today.

First, do not stop with this audit of the Major Highway Projects program and these two bills. Continue on with your scrutiny and redirect it towards the Maintenance and Rehabilitation programs.

Increased scrutiny of the Maintenance program, whether in the form of an audit or otherwise, may show that the 6.36% reduction in inflation-adjusted Maintenance funding from 1990 to 2005 identified by the Wisconsin Department of Transportation means that the basic maintenance needs of our state highways are not being met. If so, this is a tremendous problem that merits immediate attention.

Similarly, an audit or other investigation into the Rehabilitation program, specifically the criteria used in defining Rehabilitation projects, will also be very instructive. The largest problem that we have identified is the arbitrary boundary that distinguishes a Major Highway Project from a Rehabilitation project. While the boundary is very distinct, it is not intuitive. Instead of simply separating expansion projects from repair projects, the statutory definition of the Major Highway Projects program only includes projects costing more than \$5 million and involving any one of the following: adding 2.5 or more miles of new highway, relocating 2.5 or more miles of highway, adding one or more lanes of at least 5 miles, and improving at least 10 miles of divided highway to freeway standards. Since the distinction is so technical, it gives advantage to special interests that can influence the planning and budgeting process to their own advantage and to confuse the public about how its tax dollars are being spent.

In the following examples the statutory distinction between Major Highway Projects and Rehabilitation means that the following projects in the Six Year Highway Plan are not Major Highway Projects, but fall under the class of Rehabilitation:

- The work on US Highway 14 in Dane County titled "Oregon Bypass" is 4.99 miles long, is estimated to cost between \$5,000,000 and \$5,999,999 and the project description is: "Reconstruct USH 14 on a new alignment from STH 138 to STH 92."
- The work on US Highway 14 in Richland County titled "Richland Center - Gotham/Incl. B-583" is a 7.81 miles long, is estimated to cost between \$10,000,000 and \$10,999,999 and the project description is: "Extend existing 4 lane roadway to STH 58, widen roadbed to provide 12 foot driving lanes, construct passing lanes, and pave 3 feet of shoulders from STH 58 to Gotham."
- The work on STH 33 in Ozaukee County titled "STH 33 I-43 to Tower Dr" is 1.50 miles long, is estimated to cost \$8,000,000 to \$8,999,999 and the project description is "Reconstruct with added capacity."

Each of these three examples is a project that exceeds the \$5,000,000 threshold and either builds on a new highway alignment or adds new capacity, but do not meet the length requirements set forth in the statute. Rehabilitation work is commonly portrayed as the equivalent of repair work but our analysis suggests that increased scrutiny of this program would clearly demonstrate that such a portrayal is misleading the general public. Don't the people of Wisconsin deserve a clear accounting of where their money is being spent? And, does an \$8 or \$10 million Rehabilitation with expansion project not merit increased oversight similar to an \$8 or \$10 million Major Highway Project, regardless of whether the expansion is one, five, or twenty-five miles long?

Put together, the data from these two additional audits, or a similar audit that reviews the whole state highway program, would allow the Wisconsin Department of Transportation, the legislature and members of the general public to step back and look at the big picture, identify key problem areas and move forward towards practical solutions to these problems.

1000 Friends of Wisconsin's other suggestion is that the state move forward immediately to adopt a policy that sets strict state highway program budgeting priorities. Whether it is called Fix it First, Preserve First or something else, this policy needs to set forth that Wisconsin will spend taxpayers' money on meeting the total demand of maintenance and repair work before funding capacity expansion. It's a matter of common sense. Once the maintenance and repair needs have been fully funded, then there can be a debate as to whether the remaining funds will best be used to fund capacity expansion of the state highway system, transportation aids to local governments, or other programs.

Thank you for considering these comments and for the opportunity to speak today.



Matthews, Pam

From: Klein, Rose
Sent: Friday, February 27, 2004 8:26 AM
To: Matthews, Pam; Asbjornson, Karen; Shannon, Pam
Subject: Updated Language for Majors/SE Oversight Legislation

I am forwarding the following e-mail on behalf of Randy Romanski.

-----Original Message-----

From: Wolfgram, Mark
To: Romanski, Randy
Cc: Klein, Rose
Sent: 2/26/04 6:06 PM
Subject: Updated Language for Majors/SE Oversight Legislation

Here is what we suggest as changes to the proposed legislation and the amendment (Assembly versions, which I assume are identical to the Senate versions):

Issue: TPC review of the FEIS/EA before a project can be enumerated
Objective: Allow enumeration to proceed as long as the TPC has received the FEIS/EA, which are often hundreds of pages long.
Proposal:

Drop the words "and reviewed" from AB 893's proposed language for 13.489(4)(a)1.a. and 13.489(4)(a)1.b.

In both cases the amended language would become ".....and the commission has received a final environmental impact statement or environmental assessment for the project approved by the federal highway administration."

Issue: TPC reports on SE projects and Change management requirements for SE projects
Objective: Focus extra steps/reporting on pavement, bridge and interchange reconstruction projects, eliminating requirements for resurfacing and reconditioning projects.
Proposal:

Change the word "rehabilitation" to "reconstruction" in AB 893's proposed language for 13.489(5)(a)1. and 85.052

The last portion of 13.489(5)(a)1. would become ".....and of each southeast Wisconsin freeway reconstruction project under s. 84.014."

The last portion of 85.052 would become ".....and all southeast Wisconsin freeway reconstruction projects funded from any appropriation specified in s. 84.014(2)."

Issue: Expressway language in LRB 2408/1 proposal for 13.489(2m)
Proposal: After further thought, there is no confusion caused by the proposed language, the only recommendation is to remove the words "from a highway".

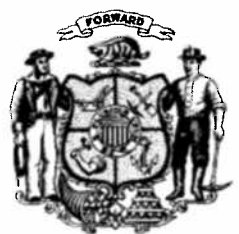
Relevant portions of 13.489(2m) would read ".....changes that involve upgrading any portion of the project to a freeway or expressway....."
The committee had intended to make this change already.

One other item of concern that the committee was to provide language on and we should watch for:

The provision of TPC meeting materials on the internet BEFORE the meeting.....we all agreed it would be after the meeting.



WISCONSIN STATE LEGISLATURE



Matthews, Pam

From: Bill McCoshen
Sent: Thursday, March 04, 2004 3:57 PM
To: pam.matthews@legis.state.wi.us
Subject: FW: Additional TPC Changes

Pam,

258-8411

Here you go.

-----Original Message-----

From: Tom Walker [mailto:twalker@wtba.org]
Sent: Tuesday, March 02, 2004 1:10 PM
To: 'Eric Petersen'
Cc: Bill Mc Coshen; 'Kevin Traas'; Pat Stevens
Subject: Additional TPC Changes

A new amendment is being prepared that does the following:

1. Keeps the increase of 2 majority party members to the Commission, but also requires that the chairs of the Assembly and Senate Transportation Committees occupy one of those 4 majority party slots.

WTBA position: retain existing law. No position on committee chairs occupying one of three slots.

2. The SE WI report language will be modified to only reconstruction projects exceeding \$5 million, despite our saying there was no TPC responsibility in this area. They don't care; feel public/legislature has a right to know spending details.

WTBA Position: No inclusion of SE WI projects whatever. Slippery slope to making them majors and eligible for revenue bonding.

3. The provision in Assembly Amendment 1 requiring web posting of materials 5 working days in advance of the meeting will be amended to say 24 hours, and an exception made for DOT having to show its hand on which projects it will recommend.

WTBA position: DOT has pretty strong feelings on this and if we push too far, we could get a veto.

Suggest 2 working days (to avoid weekend issue), and go along with the exemption, subject to how its drafted.

4. DOT did indicate it could live with modified SE WI requirement, but told me later, they would love to see it omitted.

5. Talked with Randy about Section 6 in the original draft, requiring a change management system. He agrees that it's intrusive, trying to dictate how they manage internal costs.

WTBA position: in a perfect world, I'd argue to take it out. I could, however, be persuaded to leave it in, to minimize the hostility of the audit chairs to a re-write, and it might actually help demonstrate cost accountability in the

03/04/2004

program. You make the political call.

6. All other issues in my paper remain. My #1 priorities are culling out SE WI, and eliminating any TPC approval on design changes.



From Don B. (Audit) 3/4/04

DOT expressed concern that the current language in the bill requiring biannual reports on each major and each southeastern freeway rehabilitation project would result in reports which included even minor resurfacing projects in the southeast. This problem is caused by the definition of rehabilitation, which includes resurfacing, reconditioning and reconstruction, each of which is defined in s. 84.013 (1) (b) (c) and (d). DOT argued it made little sense to report on resurfacing, or "applying a deck" as Randy characterized it.

?
• On solution would be to strike the word "rehabilitation" on page 4, line 16 of the bill (this is in newly created s. 13.489 (5) 1. and add "reconstruction or major reconditioning" instead. These would have the definitions contained in s. 84.013 (b) and (c).

To further ensure that only large value projects are captured for the reports, the language could be further modified to limit these to reconstruction and major reconditioning projects with a total value of more than \$5 million, which is the amount included in the definition of a "majors" projects.

Per DOT
"reconditioning =
resurfacing"
↓
Overkill, more projects to
report on



rec'd - 3/5/04

Recommended Changes to AB - 893

WTBA is very appreciative of the excellent work done by the Joint Audit Committee on TPC reform. The bill provides real solutions to the key issues raised by Audit Bureau. However, a number of changes outlined below would further improve the bill, avoid pitfalls, and address problem issues remaining.

Original Draft:

The original draft was introduced on Feb. 23. The following changes to the original draft would be helpful:

Doesn't
care

(1)

- Section 1: This section increases TPC membership from 3 to 4 for the majority party in each house, creating a balance with a Governor of the opposite party.

This section should be removed to avoid a likely veto of the whole bill. In addition, such a change could be negative, as party control of the Legislature and the Governor's chair evolves.

makes
sense

(2)

- Section 3: The added language in 13.489 (4) (a) 1. a. and b. should be modified as follows:

"and the commission has ~~received and reviewed~~ been notified that a final environmental or environmental assessment for the project has been approved by the federal highway administration."

This change is critical to ensuring that the TPC does not add independent oversight of environmental documents to its authority. This would potentially set up the TPC as a "last stand" place for highway opponents to appeal EIS details, which is not appropriate under the federal process. Environmental documents are huge. Requiring the TPC to review them is not realistic.

This change will bring this provision back to the original intent: shift the point of enumeration from after the DRAFT EIS to after the FINAL EIS and approval of the Federal Highway Administration.

The change in Assembly Amendment 1, deleting "and reviewed" is quite helpful, but as we discussed yesterday, sending voluminous documents filled with highly technical analysis to TPC members will serve no useful purpose. I would suggest the language noted above, with another sentence: "TPC members may request a copy of the final environmental document from the Department."

- 7, (3) • Section 5: The original draft requires cost reports every 3 months. Assembly amendment 1 changes that to 6 months. The requirement should be annual, for two reasons. A longer time frame will focus on substantive change that is visible over time, rather on the minutia of many interim decisions. Done well, this report will require a lot of DOT staff time. DOT staffing has been cut significantly. Staff will need to be relocated from program delivery.

We suggest a change in the language as follows: "By February 1, 2005 and ~~every 3 months~~ annually thereafter, the department of transportation shall submit a report to the commission that does all of the following:"

- 7, (4) • Section 5 also expands the scope of these reports to include each SE WI freeway rehabilitation project in 13.489 (5) 1. This language should be deleted.

The idea driving this provision is that certain large projects need the same kind of reporting. The provision fails to recognize that SE WI freeways include many small, relatively routine projects, and even some very large projects like the Marquette do not add capacity in a way that meets the definition of a major project. Ironically, some very large outstate Rehab projects would not be included. For example, a new Verona Road Interchange in Madison would cost well over \$100 million.

The TPC's role is and should be strictly limited to projects meeting the statutory definition of major projects. Note: statutes exempt from the definition and from TPC oversight SE WI projects that add 5 miles of new capacity. This is logical, since 80% of the costs of those segments will be for reconstruction, not new capacity.

This provision would re-open the door to including large SE WI projects as majors under TPC review, which would threaten funding for outstate majors and complicate building a separate appropriation base for SE Wisconsin Freeway reconstruction.

It is illogical to extend the TPC's role to anything beyond projects that meet the statutory role of a major project.

It may be the case that reports on certain large reconstruction projects would be helpful, although it is not all clear to whom those reports would be sent.

We suggest giving the new law a few years to work, to see if it is effective. At that point, the Legislature could thoughtfully think through what subset of projects this should apply to, and write separate legislation that has no reference to Major Projects or the TPC. The \$5 million threshold for SE WI reconstruction projects is way too low.

- 7 (5) • Section 5 also creates 13.489 (5) 2., which defines what the reports shall include. The language is inconsistent with the summary and misses a key recommendation of the audit.

These changes are recommended:

“2. For each project specified under subd.1., identifies all actual and estimated project costs, itemized by major cost categories, as of the date of preparation of the report. To the extent feasible, the department will separately track and report the costs of environmental assessments, compliance, and mitigation.”

The first change, “itemized by major cost categories” is included in the summary but not in the text. I believe that the authors wanted to include it. This provision is important because it will provide valuable information on the growth trend of various project development costs, vs. contracted construction costs. This will enable to legislature to better manage future cost drivers.

The second change was a core recommendation of the TPC audit. There seemed to be agreement by all parties that this information should be compiled and provided.

We do not believe this is overly intrusive, since it provides DOT the flexibility to choose the subcategories and structure the report as it sees fit. This is 100% better than the highly prescriptive language in Senator Cowles’ bill.

This section is one of the key elements of the bill. It will ensure that the Department accounts for all costs in a way that can be compared across projects, across the entire program, and over time.

In itself, this provision will assure that the Department has fully evaluated and can justify any cost changes in these reports.

- DOT Suggested! (6) • Section 6 creates 85.052, mandating the Department to develop and implement a change management system to provide fiscal oversight to major projects and SE WI projects.

At a minimum, the requirement for SE WI projects should be eliminated.

Conceptually, DOT should be doing this. I don’t understand the need for a statutory requirement, given that different levels of oversight are needed for projects of varying scope. I would tend to prefer that the entire section be struck.

Internal management processes should not be mandated in statutes, since they evolve.

The language noted in Section 5 above will resolve the problem highlighted by the Audit.

☆ ? (7) • Section 7 deals with applicability. A modification may be needed:

add ?
“13.489 (5) (a) 1. and 2. of the statutes first applies to major highway projects under consideration by the Commission or enumerated under 84.013 (3) of the statutes or approved under section 84.013 (6) of the statutes on the effective date of this subsection.”

This is the section requiring cost reports. As intended, it should apply to all projects under consideration, not just those enumerated. Without this change, the entire intent could be undermined.

Assembly Amendment #1 and Assembly Amendment to it:

— (8) • This creates 13.489 (2m), which requires passive review and if desired, active oversight and a public hearing on any change to a project after enumeration, that involves upgrading a portion of the project from a highway to a freeway or expressway, adding one or more traffic lanes in either direction, upgrading any intersection at grade to an interchange to accommodate higher speed traffic. The Commission may ask the department to schedule a public hearing on any of these changes. The Commission is explicitly allowed to approve, modify or reject the Department's recommendation.

This is very dangerous language. It will literally freeze DOT's flexibility after enumeration to make appropriate changes, thereby delaying projects, and will provide a new public forum to appeal decisions they disagree with, even after legal remedies are exhausted. The TPC members would have to rule on design changes. Legislators have policy expertise, but do not have the technical expertise to sort out such recommendations or resolve potential controversy. TPC members will be vigorously lobbied by advocates and opponent, and be put in a position to possibly reject project elements sought by their colleagues.

This is the first step on a very slippery slope toward TPC management oversight over major project design details.

This outcome should be rigorously avoided. We suggest the deletion of #1: Lines 2-13 on pg.1 and lines 1-18 on pg. 2, the entire section.

To the best of my knowledge, no other state has created a legislative forum to review and approve project design changes.

It has been my experience that DOT will generally oppose unjustified changes to control costs. However, there must be enough flexibility in the system to adjust project details in final design, to advance the project with the support of those being impacted.

9

- The new provision requiring DOT to create a web site for materials sent to the TPC is a very positive change.

However, the change from 5 working days to 24 hours undermines the intent of the provision. First, a working day provision rather than using hours ensures that the requirement can be avoided by scheduling a meeting on a Monday. Second, meetings called to recommend enumeration are highly political events and always have been. What has been missing is active discussion among options prior to the meeting. **A minimum of 2 working days notice is essential** to create that window. Without it, the outcome is likely to be nearly automatic TPC approval of Department recommendations. This has led to accusations that the TPC is a rubber-stamp, and to legislative efforts to find a safety valve though legislative enumeration.

We strongly agree that the TPC's decisions should not be second-guessed. Both Governor Earl and Governor Thompson vetoed budget enumerations without TPC approval, to maintain the integrity of that process. During the 1980's, there was more information available prior to the meeting and vigorous TPC debate, with alternatives offered by members. That model worked well. Cutting off legislative enumeration without ensuring TPC member discussion will probably lead to the failure of this important provision.

(d) provides posting for design changes after enumeration for approval by the TPC and the scheduling of a public hearing. For the reasons noted above, (2m) should be deleted as well as (d) in this amendment.